



**US Army Corps
of Engineers**
Louisville District ®

Public Notice

Public Notice No.

LRL-2015-949-teh

Open Date:

3 Oct 2016

Close Date:

2 Nov 2016

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Louisville District

ATTN: Mr. Todd E. Hagman, CELRL-OPF-S, Rm 752

P.O. Box 59

Louisville, Kentucky 40201-0059

Phone: 502-315-6683

This notice announces an application submitted for a Department of the Army (DA) permit, subject to Section 404 of the Clean Water Act.

APPLICANT: Premier Elkhorn Coal LLC
6920 Highway 610 W
Myra, KY 41549

AGENT: 3B Consulting Services, LLC
140 Hilltop Avenue
Lebanon, VA 24266

LOCATION: Tackett Hollow and Unnamed Tributaries (UTs) to Tackett Hollow, Long Fork and UTs to Long Fork, located approximately 2 miles west of the community of Virgie and 1.6 miles southeast of the community of Wales, in Pike County, Kentucky.

Latitude: 37.325119°N
Longitude: -82.600116°W
7.5 Minute Quad: Dorton

PURPOSE: To construct one (1) permanent excess disposal fill, one (1) instream sediment control pond and three stream crossings associated with haul road construction as appurtenant structures and work for a new surface coal mining operation.

DESCRIPTION OF WORK: The proposed project would result in discharges of fill and/or dredged material into "waters of the United States" on a site currently under review as Surface Mining Control and Reclamation Act (SMCRA)- Kentucky Division of Mine Permits (KDMP) No. 898-0948. The proposed mining operation would utilize surface area mining to extract approximately 3.3 million tons of marketable coal from the Elkhorn 1, Elkhorn 2, Elkhorn 3, Elkhorn 3.5, and Amburgy coal seams within a 280-acre mine area. The applicant proposes to construct one permanent hollow fill (HF 1), one sediment control structure (Pond 1) and three stream crossings associated with haul road construction. The proposed fill and pond would permanently impact 1,400 linear feet of perennial streams, and 1,580 linear feet of ephemeral streams. The proposed road crossings would impact 200 linear feet of perennial stream and 390

linear feet of ephemeral streams. In total, the project would impact 3,570 linear feet of streams.

AVOIDANCE, MINIMIZATION, and MITIGATION MEASURES: The applicant's preferred alternative was selected after considering off-site disposal areas, underground mining, single-cut contour mining (stand-alone), auger/high-wall and contour mining, contour mining of multiple seams, and no mining. The applicant has reduced both direct and indirect stream impacts through the preferred alternative when compared to other practicable alternatives. The applicant has minimized the amount of mine spoil proposed in disposal fills by maximizing the amount of mine spoil returned to the mined area and increasing the hauling distance. The applicant has reduced stream impact totals by proposing twenty (20) on-bench basins as opposed to numerous in-stream sediment control ponds. The applicant has reduced the linear feet of stream impacts from hollow fills by proposing the construction of one centralized spoil disposal fill as opposed to numerous smaller disposal fills placed throughout the mine site. The applicant has minimized the linear feet of stream impacts between the toe of the spoil disposal fill and the inlet to the sediment pond by locating the sediment pond 70 feet from the toe of the fill.

MITIGATION: The applicant has proposed permittee-responsible compensatory mitigation due to the lack of mitigation banks and the unavailability of stream mitigation credits from the Kentucky Department of Fish and Wildlife Resources Stream and Wetland Mitigation Trust Fund. The applicant proposes to utilize the Natural Stream Channel Design approach to restore and enhance the Bucklick Fork sub-watershed of the Long Fork watershed. The proposed mitigation site is located approximately 9.5 miles upstream of the proposed mining operation. The proposed mitigation would restore 4,930 linear feet of Bucklick Fork to mitigate for all impacts to jurisdictional waters. The mitigation proposal offers a 1.2 compensation ratio by proposing to establish a 2,489.6 EIU gain to compensate for a 2009.3 EIU loss.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA permit, if otherwise warranted, will not be issued until a Commonwealth of Kentucky Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant, by this notice, hereby applies for State certification from the KDMP.

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or

endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest which might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, pre historical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR Part 230) promulgated by the Administrator, United States Environmental Protection Agency, under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

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Regulatory Branch (South)
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Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections which are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. Drawings are available on Louisville District's Internet site at <http://www.lrl.usace.army.mil/Missions/Regulatory.aspx>. All comments regarding this proposal should be addressed to Mr. Todd Hagman, CELRL-OPF-S at the address noted above and should refer to the Public Notice Number LRL-2015-949-teh.

If you desire to submit your comments by email, you must comply with the following:

a) In the subject line of your email, type in **ONLY** the Public Notice ID No. LRL-2015-949-teh.

Example:

Subject: LRL-2015-949-teh

b) Provide your physical mailing address and telephone number.

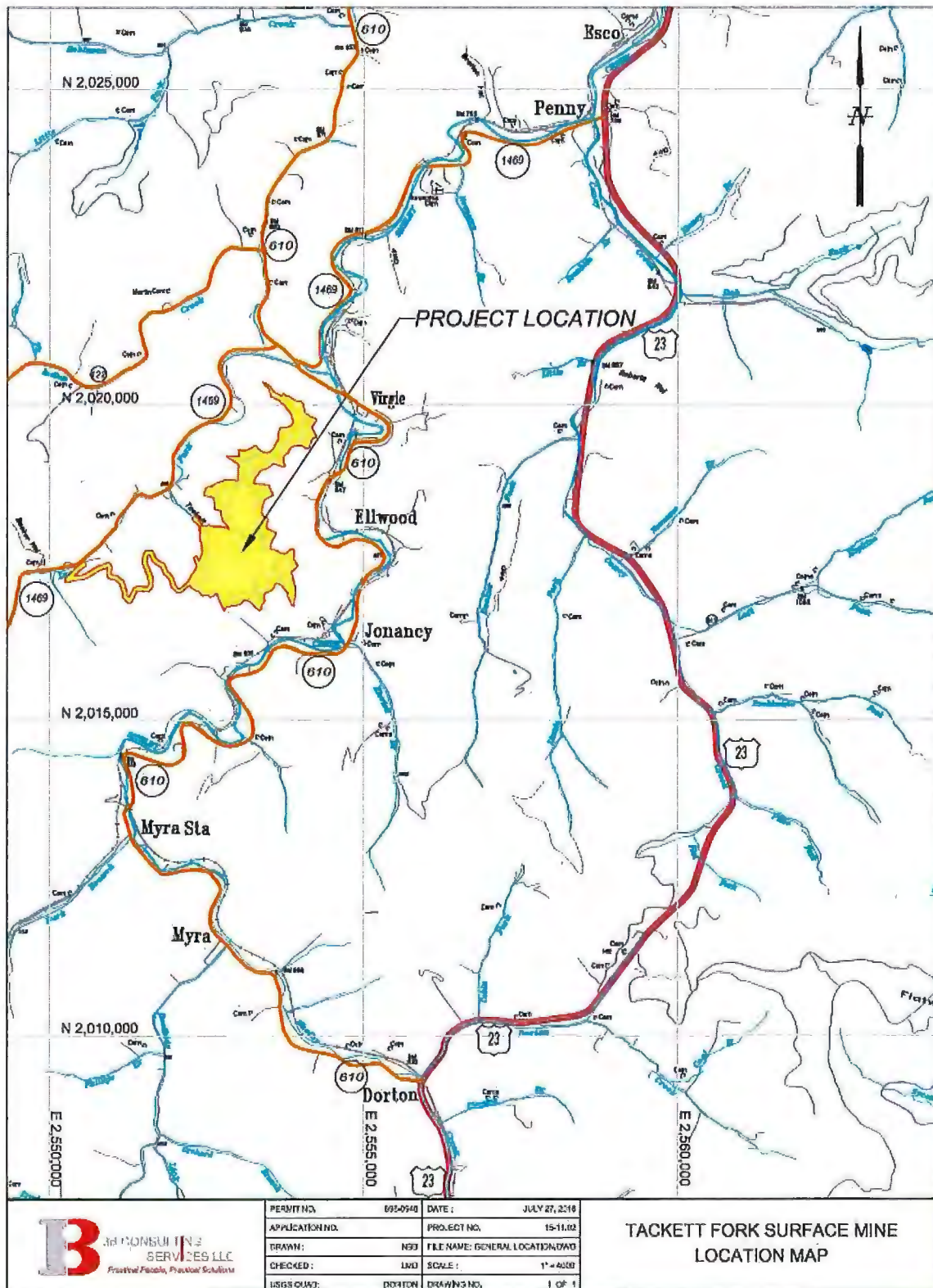
c) Send your email to: lrl.regulatorypubliccomment@usace.army.mil.

d) If you are sending attachments greater than 1 Mb in size with your email, you must send a hard copy (CD or paper) to the Corps' physical address as well.

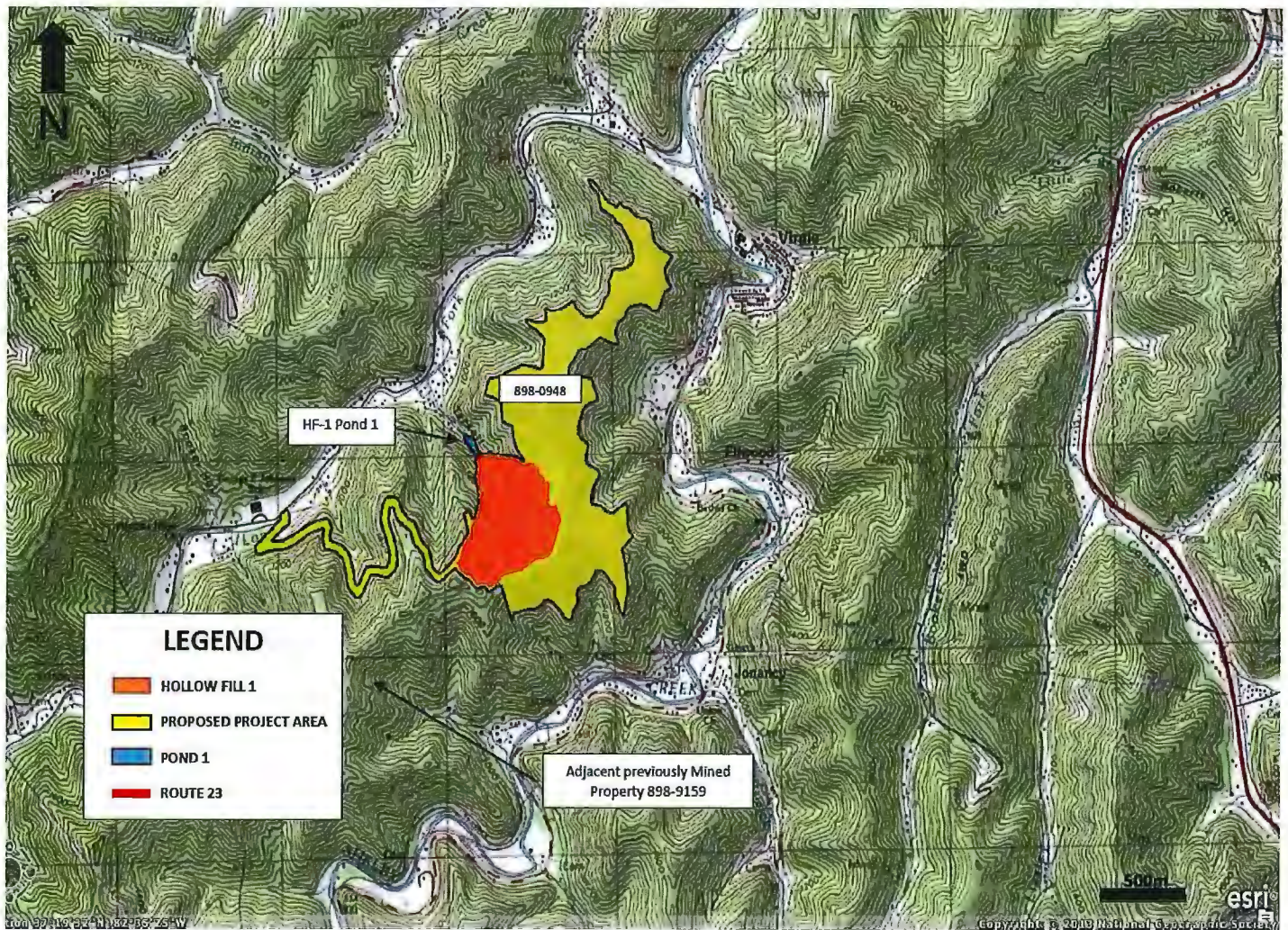
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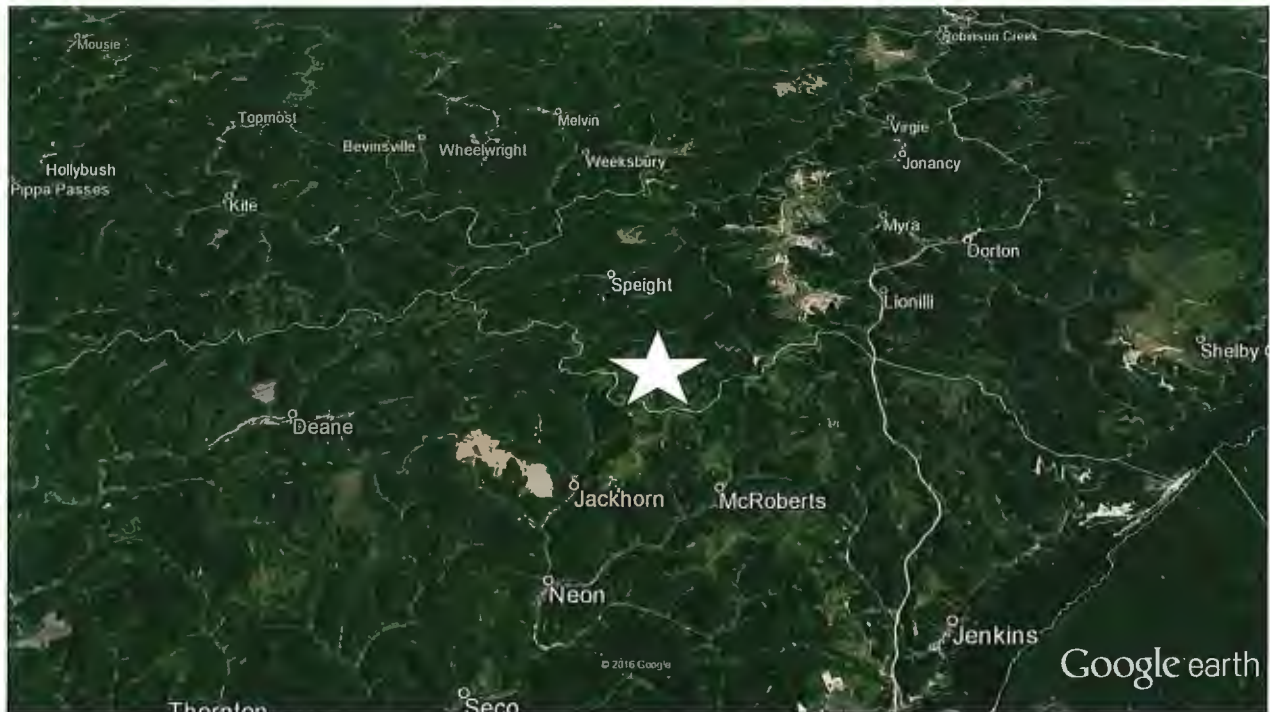


Project location map, Pike County, Kentucky.



Topo Location Map of Hollow Fill 1 and Pond.

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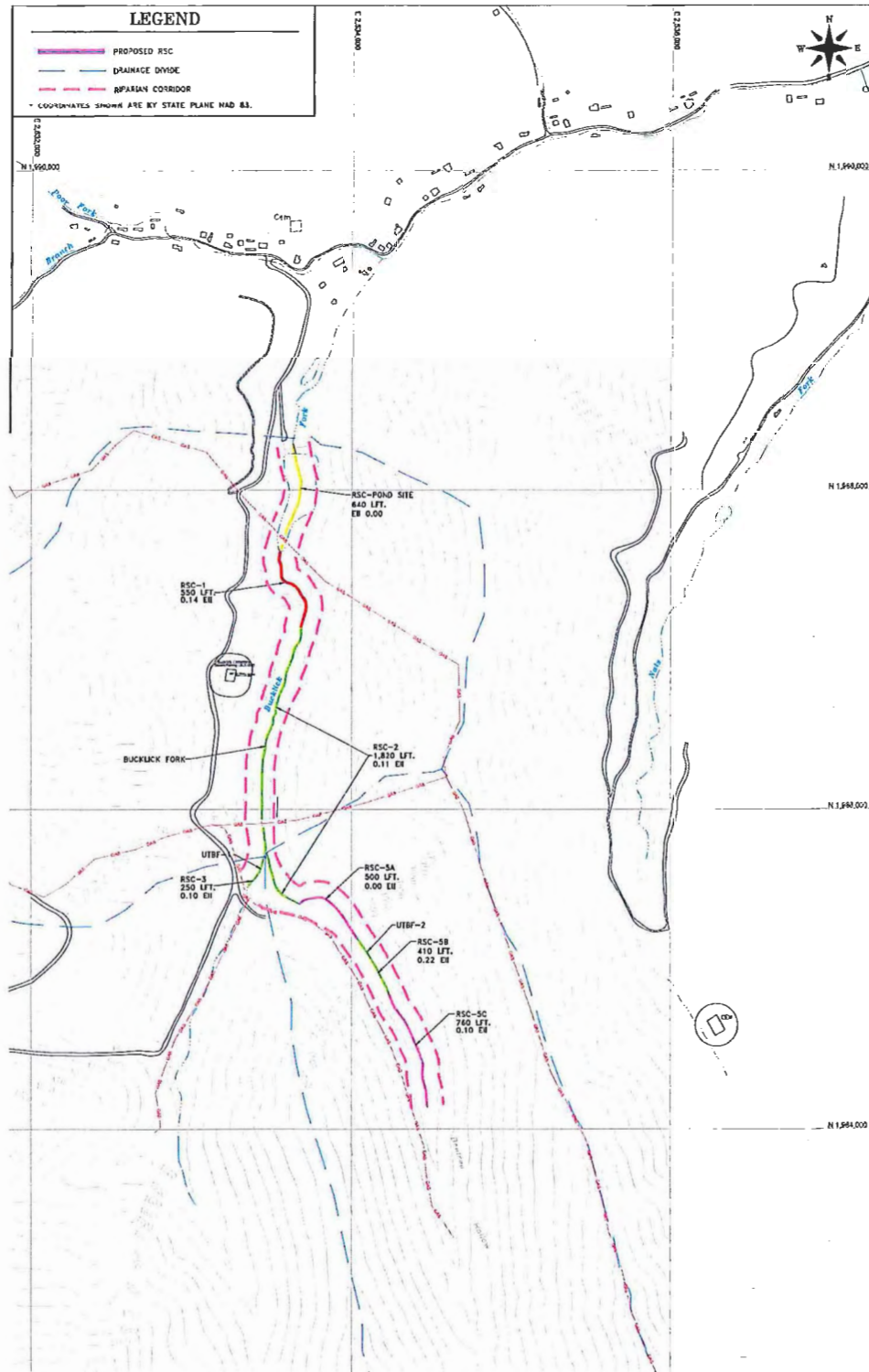


Location Map of Permittee Responsible Mitigation Site.



Aerial Photo of Bucklick Fork Mitigation Site

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Plan View of the Bucklick Fork Mitigation Site